

## ENDANGERED ANIMALS IN UTAH AND ADJACENT AREAS

Douglas Day<sup>1</sup>

**ABSTRACT.**— This paper presents a brief background on Utah's experience with the Endangered Species Act of 1973 to date, the Division of Wildlife Resources' involvement with resident endangered wildlife forms, including the Utah prairie dog, peregrine falcon, bald eagle, woundfin, Colorado squawfish and humpback chub, and problems associated with the listing of native fauna. Also discussed is a proposal to vest the division with authority for endangered plants by legislative mandate.

I appreciate that kind introduction—and it's true, I am a son-in-law of Dr. Clarence Cottam. I was debating whether to mention that or not, but it has come up. Let me just pay tribute to Dr. Cottam, as the personal relationship I had with him was something special, and I think that the reason I'm here today is because of the special interest he showed in me. I can remember looking for whooping cranes at the Arkansas Refuge. He wanted to make sure I got a firsthand impression of those magnificent birds, and that impression has stayed with me throughout my life. I remember staying out at night with Dr. Cottam on the Welder Refuge, trying to call up the Texas red wolf. His keen interest in endangered species was inspiring. I'll never forget it. He has been a great influence in my life. Also, I know he provided some direction to BYU's biological endeavors.

Talking about endangered species, I think I might be one. In the position that I'm in as director of Utah's Division of Wildlife Resources, I think I have a feeling for these critters that we're talking about. I'm kind of caught between two worlds—the political world and the world that we have worked in so many years in the biological realm. To make those worlds see eye to eye is very difficult. That's sometimes why I think directors are endangered—because they might get a little too enthusiastic about the biological part of it and forget the political part. It's a tightrope to walk. Sometimes we don't have the opportunity to say what we really feel. Someone gets to the public before we do and

says this is what they think, and prudence requires that we wait for a better opportunity. Sooner or later it seems to come. I think the time might come, if we keep going in the direction we're going in disregarding environmental concerns, that someone might just happen to have an idea that the whole world should be declared critical habitat. If that happens, I don't think we'll have to worry about collecting permits.

I'd like to make a couple of comments on a pending court case. The defendants are the secretary of the interior, the governor of Colorado, the director of the Colorado Division of Wildlife, the governor of Utah, Utah's director of the Department of Natural Resources, and I. This lawsuit is over threatened and endangered species. In that lawsuit it is mentioned that "The right to develop and beneficially consume the limited quantity of water . . . (from the Colorado River) is a vested property right, the use of which is protected to the citizens, present and future. . . ." Now, I would ask the question—does wildlife have any vested property rights? I submit that it hadn't, not until the Endangered Species Act of 1973. That's very important—to realize why we need to protect and hold on to the Endangered Species Act. In that lawsuit some of the claims are the defendants failed to properly, fairly, equitably, and impartially enforce the provisions of the Endangered Species Act. Continuing on, the lawsuit further states, "The factual basis upon which the determination was made that the Colorado Squawfish and the Humpback

<sup>1</sup>Division of Wildlife Resources, 1596 West North Temple, Salt Lake City, Utah 84116.

Chub are or were 'threatened with extinction,' and the continued designation under ESA as 'endangered' was and is not based upon sound and adequate biological data and knowledge of said species . . . and, further, amount to arbitrary and capricious acts on the part of the defendants. . . ."

Here is another item, "The defendants, and all of them, have determined without adequate biological data and knowledge that water impoundment development adversely affect such fish species. . . , and as a result of said erroneous conclusions, based upon little or no scientific evidence, defendants have continued to wrongfully impede plaintiff districts' efforts to construct their projects, including impoundments. . . ."

And last, another excerpt I thought would be of interest to you, is "The fact that Colorado Squawfish, and the Humpback Chub, were allegedly 'threatened with extinction' and are now allegedly 'endangered' is the direct and proximate result of the stocking by all defendants of non-endemic, non-native or exotic fishes in the Colorado System." What that means is that the stripers are eating the squawfish. I suggested a proposition or a proposal that might be humorous in one way but sad in another, that being, if they really want to stop the stripers from eating the squawfish (there is no scientific evidence of this), why don't they build another dam on the Colorado River to keep stripers from running upstream. I don't know what the outcome of all this will be.

My time is rather limited, but I want to draw your attention to last Sunday's *Parade* magazine. I am pleased that we are getting this kind of coverage. What it says is the two things that are the greatest threat to wildlife today are (1) loss of habitat (and that's very obvious, because if endangered species had good habitat they wouldn't be in danger) and (2) commercialization of world wildlife. Consider these statistics from the U.S. Fish and Wildlife Service. Last year in the United States we imported about 100 million tropical fish, 500,000 reptiles, 100,000 mammals, and uncounted thousands of birds. The imported traffic in manufactured wildlife goods—furs, coats, leather, trinkets, jewelry, and carvings—leaped from 1.7 million items in 1972 to 91 million in 1976, the last year

for which figures are available. Between 1973 and 1976, skin and hide imports rose from 900,000 to 32.5 million. Part of the reason is the impact from TV of Barretta's bird, Fred. A few years ago you could buy a cockatoo for \$100, and now some of them are fetching \$6,000 apiece.

Let me go into some of our involvement in the State Wildlife Division with endangered species. I'll tell you about a few of the species we're working with and about some of the progress we are making. But first, I want to take just a minute and maybe leave you with another concept. I've worked closely with the Boy Scouts for a number of years, and I had the opportunity to take them to a power plant. One thing that impressed us was the control room. In that control room you could virtually feel the whole operation of the plant. It was right there; you knew what was happening, and when there was a problem somewhere a red light came on. The plant operator could tell where that problem was from the red light.

I would submit to you that in the biological world we have our red lights. We don't pay much attention to them, or haven't done until lately. These red lights are our endangered species. I think that is a good concept. I noticed yesterday morning driving to the office a pickup truck that I was following was obviously losing its antifreeze, and I could predict what would happen; the red light came on and the truck was in trouble. He could go on a little while, but eventually it had to be taken care of or that truck was doomed. The operator obviously paid attention to the warning light and pulled off the road.

In the biological world we don't pay attention to our red lights as we should. We're just beginning to do this. These are our endangered species. This much-used and publicized terminology connotes a wildlife form desperately trying not to join the passenger pigeon, heath hen, and others in the land of memory. Each time we lose a species one of our red lights goes out.

This designation of endangered species has also been accused of holding up progress and projects, locking up land, and various other alleged abuses. The Endangered Species Acts of 1966 and 1969 were relatively innocuous

in that they recognized the status of certain species and listed them, but it took the Endangered Species Act of 1973 to establish a national policy to come to grips with the issue and determine ways and means to attempt to reverse the trends of certain species toward extinction.

To a state wildlife administrator, the 1973 Act with its attendant rule making and restrictions has been the source of much soul searching. I believe most of us wholeheartedly agreed with the philosophy and the intent of Congress. We have vigorously objected to the early federal agency approach that absolutely usurps state authority in endangered species management. Recent developments have ameliorated the situation, and on the horizon I can see finally the development of a much closer state-federal working relationship with the goal of doing all humanly possible to restore endangered species to a viable component of our environment. The sadness in the situation is that it has taken almost five years to get to this point. This is time that we can't afford to waste. However, in defense of the federal agency's past position, let me add that the act itself, until amended, left no room for legitimate compromise. This in itself has been a big stumbling block.

I remember another Cottam that you are well acquainted with here at BYU, and that is Dr. Walter Cottam. He said, "Unless you learn somehow to compete with the dollar, you will lose the conservation battle." In my experience, and ever since I have been involved, it has been a compromise situation. I am afraid the direction we are going is compromise to extinction unless we reverse that trend. We are just beginning to get some tools that give us a little bit of an edge in the compromise situation. Because of the developmental demands in our environment, it is not easy to carry on this struggle we are in. Believe me, it is discouraging. I can remember only one instance when a developer came on his own to a wildlife biologist for input into a development project. It is sad that we have endangered species acts and other legislation to require coordination and consultation between developers and biologists.

The real plus for the act has been the awakening interest in the amount of knowl-

edge about many species we never before considered as significant, or for that matter as ever existing. In retrospect, our formal training in the field was deficient in many areas but suited the times. Unfortunately, industrialization, social pressure, and human demands accelerated at a rate faster than the state of the art of wildlife management. Related fields of plant and animal science have produced knowledgeable individuals who have "come out of the woodwork," so to speak, with indisputable evidence regarding certain species that state management agencies were never privy to, were unaware of, or disregarded.

For many years we have been game oriented, not always by choice, but by the unrelenting force of simple economics. Until 1975, in Utah, our entire program was financed by user fees in the form of hunting and fishing licenses, fines and forfeitures, matching federal monies also paid by hunters and fishermen, and miscellaneous sources. It is obvious our primary mission has been to provide for and produce those species sought after by those paying the bill. In 1975 the Utah Legislature provided general funds to implement a modest nongame section within the division and has continued that support, still modest in terms of total budget. There is a legitimate need to increase funding for nongame programs, to increase our capabilities to provide basic knowledge and solutions to current problems. Appropriate emphasis is being placed on endangered species within this nongame section.

With this background, let me detail programs related to endangered species in Utah. First, let me say that we have yet to enter into a formal cooperative agreement with the U.S. Fish and Wildlife Service under terms of the Endangered Species Act. Recent congressional action provides for new rule making allowing us to do this, and we expect to sign such an agreement. However, the lack of a formal agreement dampened neither our dedication nor enthusiasm to get on with the job that needed doing.

In 1973, under a special cooperative agreement with the Denver Regional Office of the U.S. Fish and Wildlife Service, funds were provided to survey historical and potential habitat of the Utah prairie dog (*Cynomys*

*parvidens*). This is our start. As an endangered species, this animal has had an erratic history. It was first added to the list in 1969, removed in 1970, and added again in June 1973. Since our initial effort in identifying habitat, the original agreement has been amended annually, providing funds each year to continue our trapping and transplanting programs. In spite of its endangered species status, based on overall population and status of colonies, those found in private agricultural lands have provided us an annual problem of some magnitude. It is from these damage situations that we trap and attempt to establish new colonies in areas of historical occupancy on public lands. Trapping commences in the spring before the young are born, ceases until young are weaned, and resumes and continues until late summer. Our most recent technique attempts to livetrapped family groups for relocation. The work is carried out using seasonal employees supervised by our regional office in Cedar City under guidelines from our nongame section.

We have come under criticism from one animal protection organization for what appears to them to be a low success rate of survival and establishment from our transplant program. Also, that organization is critical of our numbers for the species as compared to the estimated population in 1973. All I can offer is that, because we are not sure of a percentage to project for a total population, we will continue to use our maximum counts as a minimum population figure. I am sure that our sincere efforts to alleviate agricultural damage has kept some landowners from taking matters into their own hands. Even if we are losing large numbers in an attempt to establish a new colony, it appears to us to be a wiser decision than to possibly lose the same number or more without having taken the risk. We are not happy with the odds either, but restoration of any species is fraught with failures, disappointments, and frustrations. We are only human in recognizing and being affected by them but feel that we are also professional in not giving up and in genuinely trying to reduce these failures, disappointments, and frustrations. We are confident that the Utah prairie dog will soon be in a secure enough position from the standpoint of new colonies on public lands that we

can successfully petition for delisting. What we attempt to do is investigate the problem, do the research necessary, and give some management that will ensure an environment in which the species can live and reproduce and have some kind of continuance. It takes management.

In May 1975, before authorized funding for our nongame program became effective, we concluded, in an agreement with the U.S. Fish and Wildlife Service and Bureau of Land Management, to jointly fund the division position of raptor biologist. Our share was funded through monies received as contribution from private citizens. This arrangement continues to this day, except that our share has been funded by legislative appropriation since 1 July 1976.

Our work with raptors includes all species, with emphasis on those endangered, sensitive, or unique. The American peregrine falcon (*Falco peregrinus anatum*) is of primary concern in view of its current national status. Based on historic records, Utah had the highest rate of occupancy by this subspecies of any western state with the possible exception of California. You are all aware of the dramatic decline in the West and the extirpation of the falcon in the East and the possible causes. From the middle sixties to 1975 there were no known active peregrine eyries in Utah; at least none were revealed to us. In 1978, we documented occupancy at four sights, but funding limitations allowed no data to be gathered through our efforts—that was because of a lack of personnel. We do what we can. Whether the peregrine is staging a comeback is a matter of conjecture. We doubt it. Increased awareness of its plight is probably the reason for recent documentation, plus limited additional effort to seek out the presence of the species. Evidence available indicates pesticide residues are still too high to cause much optimism at this point. We will continue to put as much effort to determining status as funds and personnel will allow. This activity will increase when Endangered Species Act funds become available to us.

This year the bald eagle (*Haliaeetus leucocephalus*) was added to the list of U.S. threatened and endangered species. Previously only those bald eagles nesting south



of the 40th parallel were listed. This action has caused us no little concern because we have no documentation of nesting bald eagles in Utah, but each winter we are visited by over 600 eagles produced from as far away as northern Saskatchewan. The population seems thriving and secure there, and we are at a loss to explain how their plight changes as they wing their way over a political boundary. I am reminded of a settler who was living up in that area along the United States-Canadian boundary at the time they surveyed our modern boundary lines. He found out through the survey that he was actually in the United States. He said, "Thank God. I couldn't have stood another Canadian winter."

We protected the listing for several reasons, but the one of the greatest magnitude and potential problem is that of critical habitat designation if the action ever comes to pass. Every canyon used for night roosting, every tree used for day resting, every hunting area could come under the designation. What would happen to our waterfowl management areas upon which so many nonhunted species depend if federal funds were withheld for failure to limit hunting because of the presence of bald eagles? Today there hasn't been a hint of such action, but stranger things have happened. Before the recent listing, we initiated a survey of bald eagle visitants, and for the past five years have documented number, preferred location of use, and general arrival and departure dates. This year, in addition to our own winter census, we will participate in the national one-day bald eagle census in cooperation with the National Wildlife Federation.

I want to talk for a minute about one other species, mention some fishes, and then wind it up. The desert tortoise (*Gopherus agassizi*) was mentioned earlier this morning. Recently the U.S. Fish and Wildlife Service has proposed, by *Federal Register* publication, listing of the desert tortoise as an endangered species along with designation of 38 square miles of the Beaver Dam slope in Washington County as critical habitat. We have been actively involved in recent years in documenting the current status of the tortoise and the condition of its habitat. While sympathetic to its plight, we believe this move to be pre-

mature in that studies currently under way in Arizona immediately adjacent should be finished and evaluated and the entire system looked at rather than drawing political boundaries to attempt management of a species.

I will touch only briefly on the endangered fishes here in Utah. I am sure Dr. Deacon will provide more in-depth summary in his presentation. There are presently three species in Utah in this category. They are the Colorado squawfish (*Ptychocheilus lucius*) and humpback chub (*Gila cypha*) in the mainstream Colorado and Green rivers in Utah and the woundfin (*Plagopterus argentissimus*) found in the Virgin River below La-Verkin Springs. There are three more species currently under consideration for either threatened or endangered status—the razor-back sucker (*Xyrauchen texanus*) and bonytail chub (*Gila elegans*) in the mainstream Colorado system and the Virgin River roundtail chub (*Gila robusta seminuda*). Our past work with these has been very limited, particularly with the Virgin River species. Recently, we have been more involved and expect to fulfill our role as fish and wildlife managers as funds are made available.

It now appears our next step may be into the area of endangered plants. In a few minutes you will hear more of the status of certain plant species from persons more knowledgeable than I; however, the Utah Science Advisory Committee has prepared legislation for introduction at the general session of the legislature in January that will give our division jurisdiction over those plant species declared threatened or endangered under the act. It also provides for the establishment of a position of taxonomist and funding to carry out the necessary activities. If this comes to pass, we will be drawing heavily for some time on the expertise of several of the speakers at this symposium.

Our involvement with endangered species to this point, though not deep, has been substantial considering the minimal funding received under the act for just one facet of the program. Recovery teams are in operation for all Utah species, and we have representatives for all but the bald eagle. Our participation has been active and sincere. We take the task seriously and intend to continue to pro-

vide meaningful input for the sake of the species involved. We also intend to cooperate with other states, federal agencies, and all interests to ensure that endangered species are provided for, keeping in perspective the needs of all wildlife as well as those various interests of our human resource. I hope our efforts will be interpreted in this light.

### QUESTIONS TO MR. DAY

- Q. We agree with your present analysis of the situation. If you find a better solution, please let us know.
- A. I think what we in wildlife management have to do is to make intelligent decisions concerning endangered species and keep the pendulum from swinging too far the other way. We don't want to lose this tool, as I mentioned before, and I think you can see what effect the politician has on the direction we go.
- Q. I'm not sure where these big birds move in from, but in the Uinta Basin there's quite a wintering population of bald eagles which comes in and feeds on the waterfowl of the Pacific flyway that goes through that area. There is an area there that came to be recognized as a roost area where the birds go back and rest in the evening and spend the night. Such areas have been given refuge status in Oregon.
- A. Well those things happen. We need to use prudence in recognizing these areas or things can get out of hand.
- Q. Do I sense an opposition to listing any critical habitat in Utah?
- A. From our division? We don't list it. We are not opposed to critical habitat designations if needed.
- Q. Well, Dr. Murphy said the same thing there and I was wondering if . . .
- A. No, when you get down to specific cases, whatever is needed, whatever the facts require to ensure the survival of that species at an intelligent level—that ought to be the way we are managing it. You can see what the reaction of the public and the politician is to situations where we go overboard.

Dr. Murphy: There are several large and important roosts that would fit the category of the one he mentions in the Uinta Basin that I would be very happy to see listed as critical habitat, but it's just

that the wintering population becomes very disbursed and small groups will be found in small areas all over the state. It becomes almost administratively impossible to keep up with that kind of a situation.

- Q. I would like to ask you a question that is perhaps out of your realm, and that is "what is the policy of the state with regard to endangered species, particularly plants on state land?"
- A. A lot of people have been asking me those kinds of questions lately. I guess first we'd have to know what the management implications are. You've got the other species I mentioned, the resources, the rehabilitation projects going on for game species, and that type of thing. I can only answer, just in a general way, that we're interested. We want to see these identified and take intelligent measures to protect habitat and species.
- Q. Specifically, what about the *Cactus rideii* on the Mancos Shale in the Citros Butte area of Wayne County which is being strip mined for coal and is in an area of critical habitat for that species?
- A. You remind me of a story that will maybe get me off the hook. This fellow was a well-known speaker. He gave this talk, and his chauffeur drove him around to all these places, and his chauffeur said one day, "Let me give this talk for you. I've heard it so many times I can do it as well as you can."

So he said, "OK, I'll wear your chauffeur's uniform and you give the talk."

That happened. The audience applauded, and then it came time for the questions. That's the situation I'm in. A question like this came up, and he said, "That's one of the simplest questions I've ever heard, and to show you how simple it is, I'm going to let my chauffeur answer it." The problem is that I didn't bring my chauffeur.

We'll work with you. Let me just indicate that state lands are not our wildlife lands, but lands under the State Land Board. I'm not happy with the past management of state lands. Overgrazing has been a continual problem since early in Utah history. We're stuck with the rehabilitation. I've seen that overgrazing. The most recent time was the bow hunt this fall on the Manti Forest. You can look at the museum pictures of overgrazing and you can go out on Fred's Flat today and identify those same pictures without a camera. If you don't learn from history, you're bound to make the same mistakes.